

MARGIN A. URQUHART, JR.

IBLA 83-853

Decided June 28, 1984

Appeal from decision of Montana State Office, Bureau of Land Management, rejecting appellant's simultaneous oil and gas lease application M 58237.

Affirmed as modified and remanded.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

Where an automated simultaneous oil and gas lease application Part B (Form 3112-6a) bears a different identification number in the space designated "MARK SOCIAL SECURITY NUMBER" than the identification number entered on Part A (Form 3112-6), the lease application is not properly completed and must be deemed unacceptable.

APPEARANCES: Margin A. Urquhart, Jr., Esq., pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Margin A. Urquhart, Jr., appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated July 13, 1983, rejecting simultaneous oil and gas lease application, M 58237, because the identification number on Part B (Form 3112-6a) of the automated simultaneous oil and gas lease application did not match that entered on Part A (Form 3112-6). 1/

Appellant submitted an automated simultaneous oil and gas lease application for three parcels during the March 1983 filing period. The application was accompanied by a filing fee of \$225 (\$75 per parcel). The application was selected with first priority for parcel MT 234 in a drawing held by BLM. BLM explained that appellant's completed Part B (Form 3112-6a) of the automated simultaneous oil and gas lease application showed his social security number as 267-26-1141. BLM stated that Part A (Form 3112-6) of his automated simultaneous oil and gas lease application indicates that his social security number is 267-26-1146.

1/ The appeal is filed by Margin A. Urquhart, Jr. The decision appealed from was issued to Margin A. Urquhart since this was the name of the applicant as it appeared on the application.

In his statement of reasons, appellant asserts that his application was filed in his behalf by his agent, RAM-CO, SOUTH, and that his agent had his correct social security number which is 267-26-1146. Without having seen the Part B application which was filed on his behalf, appellant hypothesized that the last digit of his social security number in Part B of his application, which appeared to be a "1," might, in fact, be a "6" in which the loop was dim or was not "picked up" by BLM's computer. Appellant requests that BLM take a "close look" at the application. Appellant also requested a copy of the application in question. The file indicates that BLM sent him a copy on August 9, 1983.

In reviewing Part B of appellant's application in the case file, we note that appellant's social security number is clearly printed as 267-26-1141. The appropriate circles are marked to correspond with these numbers, including the final "1."

We observe generally that under the Mineral Leasing Act, the Department is authorized to issue a noncompetitive oil and gas lease only to the first-qualified applicant. See Udall v. Tallman, 380 U.S. 1 (1965); 30 U.S.C. § 226(c) (1982). The Department has promulgated regulations which provide for the simultaneous filing of applications to be drawn for priority of consideration. 43 CFR Subpart 3112.

In the past the Board has consistently held that failure to properly complete the information required on a simultaneous oil and gas lease application renders the filing defective and requires rejection of the offer under 30 U.S.C. § 226(c) (1982); 43 CFR 3112.6-1(a) (1982); H. L. McCarroll, 55 IBLA 215, 216 (1981). The regulations in effect when appellant's application was filed provided that an application consists of an approved form "completed, signed and filed pursuant to the regulations in this subpart" and required that the "properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management." 43 CFR 3112.2-1(a) and (g) (1982) (emphasis added). 2/

Beginning on September 1, 1982, the form approved by the Director, BLM, for use in the Montana State Office is the automated simultaneous oil and gas lease application consisting of forms 3112-6 and 3112-6a. 47 FR 31968 (July 23, 1982). A simultaneous oil and gas lease application must be filed on a form approved by the Director, BLM. The automated form, which is machine readable, is designed to accommodate the automated processing of simultaneous oil and gas lease applications.

The application consists of two forms, Part A and Part B. Part A, which is to be submitted only with the applicant's first filing under the automated process, enables BLM to record the applicant's name, address, and identification number. Part B identifies all parcels which the applicant desires to lease and a separate Part B is submitted for each drawing. The identification number appearing on both parts is the coordinating feature

2/ The current regulation, effective Aug. 22, 1983, specifically provides that an applicant shall enter on the simultaneous application his social security number (SSN) or, in lieu thereof, his BLM assigned number (BAN). 43 CFR 3112.2-1(e). 48 FR 33678 (July 22, 1983).

between them. Although the number is designated "SOCIAL SECURITY NUMBER" on the form, it may be a person's SSN, a business entity's employer identification number (EIN), or a BAN. The number entered on Part A is coordinated with all subsequently filed Part B forms.

[1] All Part B filings must correspond with a Part A filing on record. Part B instructions direct the applicant to "print in the appropriate squares the number used by the applicant on Part A and mark the corresponding circles." (Emphasis supplied.) As the Board noted in Satellite Energy Corp., 77 IBLA 167, 90 I.D. 487 (1983), the new forms were adopted to accommodate the automated processing of simultaneous oil and gas lease applications in order to expedite lease issuance and reduce the paperwork burden on the public. Entry of the appropriate identification number in a form which is machine readable (by darkening the appropriate circles) is required to relate the successful application to the applicant whose name and address appear on Part A of the application on file. Satellite Energy Corp., *supra*. 3/ The misidentification of Part B precludes the automated system, designed to enhance BLM's capacity to administer the selection program, from completion of its assigned tasks. Harold Eugene Turner, 81 IBLA 106 (1984); *see* Shaw Resources, Inc., 79 IBLA 153, 91 I.D. 122 (1984).

The regulation in effect at the time appellant's application was filed, 43 CFR 3112.6-1(a) (1982), provided that an application would be rejected if not filed in accordance with section 3112.2. 43 CFR 3112.2-1(g) (1982) required that applications be "properly completed." Subsequent to the drawings involved in this appeal, BLM adopted revised regulations governing the simultaneous filing procedures which were specifically designed for administration of the automated simultaneous filing process. Thus, the regulations were revised to provide at 43 CFR 3112.3(a) that:

(a) Any Part B application form shall be deemed unacceptable and a copy returned if, in the opinion of the authorized officer, it:

- (1) Is not timely filed in the Wyoming State Office; or
- (2) Is received in an incomplete state or prepared in an improper manner that prevents its automated processing; or
- (3) Is received in a condition that prevents automated processing; or
- (4) Is received with an insufficient fee. 4/

49 FR 2113 (Jan. 18, 1984).

3/ In Satellite Energy Corp., *supra*, the Board held that where the proper identification number was marked in the circles in a form which was machine readable the application was properly completed and the failure to write out the digits of the number was an inconsequential omission not requiring rejection.

4/ This is the revised version of the regulation at 43 CFR 3112.3(a) governing the automated simultaneous leasing system. The initial version of the regulation was published at 48 FR 33679 (July 22, 1983).

In the context of the automated simultaneous filing procedure where one Part B application may describe numerous parcels involving thousands of dollars in filing fees, the distinction between an application which is returned as unacceptable and an application which is rejected is significant since in the latter case all filing fees are retained by BLM whereas in the former case a single \$75 processing fee is retained and the balance of the fees returned. 43 CFR 3112.3(b), 48 FR 33679 (July 22, 1983).

In a recent case considered en banc by this Board, Shaw Resources, Inc., supra, we held that the scope of the definition of an application which is prepared in a manner that "prevents automated processing" is broad enough to include applications with mismatched identification numbers on Part A and Part B. Further, the Board held that the regulation defining such applications as deemed "unacceptable" under the revised regulations whether or not the defect is discovered prior to inclusion of the applications in the selection process. 79 IBLA at 176-77, 91 I.D. at 135. Because the application of these revised regulations to appellant's case would benefit appellant by requiring that his Part B application be treated as unacceptable, thus mandating refund of fees less a \$75 filing fee for the unacceptable Part B application, whereas the application would otherwise be rejected with retention of all fees, the Board has held it appropriate to apply these regulations to cases such as this. Shaw Resources, Inc., supra. Accordingly, the BLM decision is affirmed as modified to find appellant's Part B application unacceptable, thus allowing return of fees tendered less a \$75 filing fee for the Part B application.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified and the case is remanded.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge

Gail M. Frazier
Administrative Judge

